

Chapter 4 – Individual Paragraphs

This Chapter includes four individual paragraphs on Goods shed (SR), arbitrary offloading from contract (ECoR), extra budgetary resources (NEFR) and minimum annual guaranteed payment (SR) involving money value of ₹ 32.99 crore discussing compliance issues on under utilization of assets created and irregular expenditure from extra budgetary resources, etc.

4.1 Unplanned construction of Goods shed: Southern Railway

Southern Railway Administration created a Goods Shed at Nilambur Road costing ₹ 5.12 crore without assessing the incoming and outgoing traffic.

To facilitate goods traffic, Goods Sheds are developed at railway stations after estimating the likelihood of traffic to be generated. As per, Para 101 and 606 of Indian Railway Traffic Code (Commercial) Railway should provide proper approach roads and circulating areas, adequate accommodation and goods platforms, adequate lighting arrangements in Goods shed premises. The Commercial Department is responsible for marketing and sale of the transportation provided by a Railway, for creating and developing traffic.

Southern Railway (SR) proposed (September 2009) the development of a Goods Shed with half rake loading facility (20 BCN Wagons) at Nilambur Road Railway Station. The proposal was based on demand of Trade Organisations at Nilambur Road for providing outward traffic and inward traffic of cement, fertilizer and foodgrains to meet the demand locally. While according financial concurrence, Financial Adviser & Chief Accounts Officer/Southern Railway (FA&CAO/SR) noted (October 2009) that the above line is uneconomical and Goods Shed available at Angadipuram (38 Km from proposed Nilambur Road Shed), has no traffic. However, GM/SR ignoring the concerns raised by Finance forwarded the proposal to Railway Board for approval. The justification for the proposal included recommendation by Hon'ble Minister of State for Railways and opportunity to tap additional traffic of cement/bamboo/rubber only if the goods shed is created.

Railway Board approved (August 2010) the proposal for setting up the Goods shed and the work was included in the supplementary works Programme of 2010-11. The work was sanctioned (August 2011) at an estimated cost of ₹ 4.80 crore. The agreement was executed (August 2012 and November 2014) for provision of Rake unloading facilities for 20 BCN wagons (Goods unloading platform, Goods shed approach Road,

compound wall with CC blocks and Goods Shed office) and provision of circulating area at second entry. The first work was completed in January 2015 and the second work was completed in December 2017 at a total cost of ₹ 4.43 crore.

Goods Shed at Nilambur Road

Goods Shed at Nilambur Road was opened (February 2016) for both inward and outward Goods Traffic except POL. However, no inward and outward traffic was booked at Nilambur Goods shed since the date of its



commissioning except a lone booking for one rake from Malabar Cement Company Siding, Walayar (WACS) during March 2020.

Audit further observed that SR Administration conducted two meetings (November 2016 and February 2021) with the trade persons after commissioning of Goods Shed to garner traffic to Nilambur Road Goods shed. The main issues that were highlighted during the meeting was that customers were facing constraints in bringing their consignments through existing road due to congestion especially near Level crossing (LC) and closing of branch line during the night hours.

To address customer's these constraints, SR executed a contract for provision of approach road and the work was completed at a cost of ₹ 0.69 crore. The approach road was opened (July 2019) for traffic. The night traffic was also opened (January 2020) between Shoranur- Nilambur section to facilitate release of wagons during morning hours and movement of empty rake during night hours. Even after solving the issues raised by Trade persons, no traffic was originated at Nilambur Road (until February 2022).

The matter was taken up with the General Manager, Southern Railway (September 2021). In their reply, SR Administration stated (March 2022) that the proposal to open Goods Shed at Nilambur was initiated based on projection of transportation of products of local area. The rubber products being major commodities among the assessed traffic, all producers of these products were taken into consideration while projecting the traffic. MRF company has also assured to divert the Road traffic to Rail on completion of the existing contract with Road operators. Railways are taking continuous marketing efforts by frequently contacting the Stake Holders. Further, to develop and improve traffic, a license was awarded to

Shri K.P. Abdul Kareem, through open tender for development of Nilambur Goods Shed by providing basic facilities and its maintenance for a period of 10 years under Public-Private Partnership (PPP) mode.

The Nilambur Goods Shed was developed based on demand from Trade fraternity. After the development of Nilambur Goods Shed, the industrial scenario in Kerala was also affected by natural calamities like cyclone, floods etc and also due to COVID-19 pandemic. Despite these constraints, the future prospects can be encouraging, as one party has intended to develop Nilambur Goods Shed. Hence, it cannot be construed that the construction of Goods Shed at Nilambur was initiated without proper assessment of potential traffic and has resulted in infructuous expenditure.

The reply of SR Administration is not acceptable. The fact remains that rubber and other produce taken into consideration while projecting the traffic, could not be moved by rail till date. Even after opening of Nilambur Goods shed in February 2016, only a single traffic of five wagons of cement from Malabar Cements Ltd., Walayar (122 Kms) was moved. Also during the lock down period due to COVID, freight movements by and large remained unaffected in Indian Railways. Further, it is ascertained from Nilambur Road station that the work of development of Nilambur Goods shed under PPP mode had progressed very little on date.

Thus, the construction of Goods Shed at Nilambur without proper assessment of potential traffic resulted in infructuous investment of ₹ 5.12 crore.

The matter was referred to the MoR in May 2022; no reply was received (August 2022).

Recommendation:

MoR need to ensure feasibility study before taking up any project particularly with reference to revenue and potential traffic.

4.2 Avoidable contractual liability due to arbitrary offloading of a portion of work from an ongoing contract: East Coast Railway

East Coast Railway Administration in violation of the General Conditions of Contract offloaded 20 per cent of work from a contract for earthwork in formation, Minor Bridges and other miscellaneous works in the Sambalpur-Talcher doubling project awarded for ₹ 58.92 crore in December 2016. This has resulted in avoidable contractual liability of ₹ 7.09 crore.

Railway Board from time to time¹³⁷ prescribed that contract for works should not be awarded unless the pre-requisite¹³⁸ works are sanctioned by the competent authority. Further, Clause 40A of the Indian Railways General Conditions of Contract (GCC), provides that at the final stage of completion and commissioning of work, in case the contractor's failure is limited to only 2 per cent of the original contract value, the contractor could request the Railways to offload such portion of work from him. On the contractor's request such works may be offloaded and got executed through another agency and additional cost incurred, if any, should be recovered from dues of the contractor. Railway shall also deduct 10 per cent of cost of such work or ₹ 1 lakh whichever is lower, from the Contractor's dues as administrative charges for the process of finalizing new agency for such work.

Examination of records revealed that a contract¹³⁹ in Sambalpur–Jujumora section from Km 0 to Km 38.4 was awarded to the lowest bidder M/s Shree Balaji Engicons Pvt. Ltd at a contract value of ₹ 58.92 crore in July 2016¹⁴⁰ with a 30 months' target period of completion. During execution, the contractor informed (March 2017 and July 2017) Railway Administration about non-availability of land/Signal and Telecommunication (S&T) free zone and infringements, etc. These resulted in hindrances in execution of the work. Based on the reasons cited by the contractor, East Coast Railway (ECoR) granted extensions of time without penalty till July 2020.

¹³⁷ RB's letter no. 80/W2/3/33 dated 28/29 August 1980, RB letter no. 85/W1/CT/9 dated 22 February 1985 and Compendium on Tenders & Contracts 2016.

¹³⁸ Soil tests and site investigation are completed, all plans, design, detailed drawing, estimates/schedule of quantities etc.

¹³⁹ For "Execution of Earthwork in formation, Minor Bridges and other Miscellaneous works in the Sambalpur-Talcher doubling project.

¹⁴⁰ LOA No. CE/CON/III/BBS/T/33/2016/1373/SBEPL/3240 dated 5 July 2016 and Agreement No. 55/CE/CON/III/BBS/ECoR/2016 dated 8 December 2016.

Audit noted that while the work was in progress, Deputy Chief Engineer (Construction), Sambalpur [Dy. CE. Con/SBP] proposed (May 2020) for offloading a portion of work¹⁴¹ due to non-availability of land, revision of yard plan, non-shifting of electric lines, etc. It was also proposed to introduce GE G-14 specification for earthwork in formation instead of existing GE G-01 specification. In contravention to Clause 40A of GCC, the work was offloaded without the request of the contractor.

On the proposal to offload the work, Finance Department sought the reasons for not executing the work by the existing contractor. In reply, Dy. CE. Con/SBP mentioned that hindrance free land was available for execution of work. The conditions and specification of earthwork between Sambalpur and Maneswar had been completely changed requiring change of specification to GE G-14 condition for the formation. As such, executing balance work through Open Tender was beneficial to Railway.

Thereafter, a fresh tender with GE-14 specification of earthwork was floated for the offloaded work¹⁴² and the contract was awarded¹⁴³ to the Lowest bidder M/s Orient Constructions Pvt Ltd at a tender value of ₹ 18.75 crore. The Arbitrary offloading of a portion from the scope of work of an ongoing contract and retendering at a higher cost resulted in avoidable contractual liability of ₹ 7.09 crore¹⁴⁴.

The issue was taken up with the ECoR Administration through a special letter in September 2021. In reply (January 2022), ECoR stated that the earlier contractor could not execute the balance work due to non-availability of land, revision of yard plan, non-shifting of OHE lines, etc. By offloading the contract Railway got an opportunity to change the specification to GE G-14.

Audit further noted that Zonal Railway Administration was not empowered in the GCC to offload an ongoing contract in excess of two *per cent* of

¹⁴¹ Km 0 to Km 14.550 from Sambalpur end.

¹⁴² Execution of Balance Earthwork in formation, Minor bridges and other Misc. works in section between Sambalpur-Maneswar (excluding Maneswar yard) Km 0.00 to Km 14.550 including Sambalpur City Yard.

¹⁴³ Vide LOA No. ECoR-CONST-HQ-Engg/ETCPMSBP2020037 dated 3 December 2020.

¹⁴⁴ Savings in initial contract was ₹ 11.66 crore (i.e. ₹ 58.92 crore - ₹ 47.26 crore)

Additional contractual liability= ₹ 7.09 crore (i.e. ₹ 18.75 crore - ₹ 11.66 crore).

work and without getting the request of the contractor for offloading. In the instant case, ECoR violated the GCC to offload 20 per cent of work¹⁴⁵.

The reply is not acceptable as land for earthwork was available at the time of offloading (May 2020) and existing contractor could have executed the balance work. The reply of railway is also silent on the reason for not adopting GE G-14 specification of 2009 in the year 2016 for the entire line instead of adopting it for a patch of earthwork in 2020. The entire doubling work from Km. 0 to Km.38.4 was awarded with GE: G1 specification (i.e for 22.5 Ton axle load). Subsequently, the revised specification i.e. GE G-14 had been adopted for the remaining 14.5 km. Thus, implementation of revised specification GE G-14 of 2009 for higher axle load in a patch of earthwork was not necessary since movement of rakes with higher loads would not be permissible on a line having different patches supporting different loads.

The matter was referred to the MoR in May 2022; no reply was received (August 2022).

Recommendation:

MoR need to ensure proper offloading of an ongoing work strictly as per the General Conditions of Contract.

4.3 Irregular Expenditure from Extra Budgetary Resources (Institutional Finance): Northeast Frontier Railway

Northeast Frontier Railway incurred irregular expenditure of ₹ 12.13 crore from Extra Budgetary Resources (Institutional Finance) earmarked for a Doubling Project on Land Development of other Projects, environment-related works and a Golf Course, specifically excluded from the purview of the Fund.

In the Railway Budget 2015-16, Extra Budgetary Resources (Institutional Finance) or EBR-IF was introduced¹⁴⁶ to borrow funds from Institutional sources to ensure availability of funds for completion of Projects critical to the Railways for generation of revenue. Elaborating the concept, Railway Board (RB) emphasised that 'EBR-IF allocations would be utilised for priority works under Plan Heads New Lines, Gauge Conversion (GC), Double Line (DL), Triple Line (TL), Railway Electrification (RE), Signal & Telecommunication (S&T), etc. with a view to enhancing throughput on the

¹⁴⁵ ₹ 58.92 crore (-) ₹ 47.26 crore = ₹ 11.66 crore = ₹11.66 crore/₹ 58.92 crore (x) 100 = 19.78 per cent or 20 per cent.

¹⁴⁶ Railway Board's Letter No. 2015/FS Cell/1/2 dated 23 October 2015.

congested corridors. As the cost of the funds from institutional financing would be based on market rates, the utilisation of these funds should be carried out with utmost prudence and propriety and only the justifiable expenditure pertaining to the work should be booked through these funds. Payment of interest on inventories carried over to the future years is not desirable.

Scrutiny of records of NEFR revealed that the New Bongaigaon-Goalpara-Kamakhya (NBQ-GLPT-KYQ) Doubling Project (176 KM) chargeable to EBR (IF) was included in Pink Book (2015-16) and Detailed Estimate was sanctioned by Railway Board in September 2016. The Railway Board instructed that 'only the items directly connected to the work should be included in the estimate. If it is felt that after commission of Doubling/Tripling/Quadrupling certain additional facilities would be required, they may be proposed as a separate work under relevant Plan Head'.

Minister of Railways (MoR) visited Guwahati in May 2017 and directed for setting up a Botanical Garden/Bio-diversity Park in Amingaon, which may also be used to promote tourism in Guwahati area. A year later (May 2018), this work was offered by Open Line to Northeast Frontier Railway Construction Organization (NFRCO). The NFRCO agreed (May 2018) that the Bio-diversity Park was to be developed with contingency funds available against sanctioned projects under NFRCO.

NFRCO executed a Contract Agreement (CA) in October 2018 for the work 'Development of Land near the Army Camp at Amingaon for the Construction of various field offices of NEFR (Construction)' valuing at ₹ 8.35 crore. Subsidiary Contract Agreement-1 (SCA-1) to the CA was executed in June 2019, accommodating a Botanical Garden/Biodiversity Park including a Golf Course as a Non-Scheduled Item (NS Item) in the original work. The value of the total work was raised to ₹ 11.76 crore in SCA-1. Subsequently, value of the total work was increased to ₹ 12.40 crore in SCA-2 (December 2020). A total of ₹ 12.13 crore was already paid till March 2021 and charged to NBQ-GLPT-KYQ doubling project.

Land development work and setting up of a Bio-diversity Park, including a Golf Course, was neither directly connected to the Doubling work nor included in the Detailed Estimate of the Project. A large amount of money spent on this, using EBR (IF) funds, was in violation of prevailing Rules and RB Guidelines.

The issue was taken up with Railway Administration in January 2022. In reply (March 2022), Railway Administration accepted that the Booking of the expenditure for work executed through CA of 16th October 2018 to EBR (IF), was irregular. Construction of Golf Course was denied and it

was stated that 'the land was primarily developed for the construction for various field offices and as Bio-diversity park which also being utilized for various sporting activity and Golf is one of them'. Further, it asserted that the booking of fund is proposed to be transferred to proper Head.

Reply of Railway Administration is not tenable. Zonal Railway Administration cannot, on their own, make re-appropriation of the expenditure incurred in this regard as prior approval of Railway Board is required for any re-appropriation/re-distribution under allocation EBR (IF)¹⁴⁷. Action to book the stated expenditure to the proper Head was not taken till 21st March 2022. The development of a Golf Course was clearly indicated in SCA-1 and SCA-2. Moreover, in August 2018, NFRCO approached Railway Board for sanction of ₹ 35.25 lakh for maintenance of the Golf Course in the Bio-diversity Park at Amingaon. Expenditure on land development in Amingaon for various Offices, was beyond the scope of EBR (IF)¹⁴⁸.

By drawing ₹ 12.13 crore from EBR (IF) during last three years for the stated work, Railway Administration increased the load on the exchequer towards payment of Interest. Thus, booking of ₹ 12.13 crore on EBR (IF) for development of land and setting up a Bio-diversity Park, including a Golf Course in Amingaon, was highly irregular.

The matter was referred to the MoR in May 2022; no reply was received (August 2022).

Recommendation:

MoR need to ensure that extra budgetary resources (Institutional Finance) earmarked for a particular project should not be used for other work.

¹⁴⁷ Railway Board's Letter No. 2011-B-174 dated 3 July 2015.

¹⁴⁸ Railway Board's Letter No. 2015/FS Cell/1/2 dated 23 October 2015.

4.4 Non-realization of Minimum Annual Guaranteed Payment for land allotted to Rail Land Development Authority for construction of Multi-functional complex at Madurai: Southern Railway

Under the policy of leasing vacant railway land for commercial use, Southern Railway allotted land at Madurai railway station to Rail Land Development Authority (RLDA) for construction of a Multi-Functional Complex. SR Administration in contravention to Ministry of Railway's instructions failed to realize Minimum Annual Guaranteed Payment of ₹ 8.65 crore from RLDA for the period July 2013 to March 2020.

In Budget 2009-10, development of Multi-Functional Complexes (MFC) at identified stations to be undertaken jointly by Rail Land Development Authority (RLDA)¹⁴⁹ and IRCON International Limited (IRCON) was announced. The commercial space in the MFCs would be leased/sub-leased to provide specified amenities to the railway passengers/users viz. shopping, food stalls, restaurants, book stalls, budget hotels, medicine and variety stores, parking facilities *etc.*

MoR issued (June 2005) instructions for leasing of railway land. As per these instructions, the land value is to be fixed after obtaining the current value of land. The land value shall be increased at the rate of seven *per cent* every year over the previous year's value.

A Memorandum of Understanding (MoU) was signed (August 2009) between RLDA and IRCON for development of a multi-functional complex (MFC). As per the MoU, IRCON shall form its Wholly Owned Subsidiary (WOS), which shall enter into Lease Agreement with RLDA for use of railway land/buildings during the lease period for development, construction, financing, operation and maintenance of MFCs.

As per para 4.3 of MoU, the absolute value of such revenue share of MoR/RLDA shall not be less than six *per cent* per annum of the land value determined as per the policy of MoR. A periodic review to update the value of railway land every five years shall be made for determining the lease charges. A Minimum Annual Guaranteed Payment (MAGP) is to be paid to RLDA by IRCON (ISL) a WOS of IRCON irrespective of whether the Lessee earns the minimum return on the project or not.

MoR issued (February 2008) instructions to all Zonal Railways that the earnings so received from the land development by RLDA are to be

¹⁴⁹ Rail Land Development Authority (RLDA) is a statutory Authority, under the Ministry of Railways (MoR), set-up for development of vacant Railway land for commercial use to supplement the financial resources of the Railways through non-tariff measures.

transferred to the Zonal Railways concerned by RLDA, which will be part of the Sundry Other Earnings of the Division on which the site is located.

Land at Madurai Railway station premises measuring 2,700 sq.m. was originally handed over (22 February 2010) to RLDA for construction of MFC. Subsequently, IRCON (ISL) utilized extra land to an extent of 317.21 sq.m. A Lease agreement between RLDA and IRCON (ISL) was entered into (July 2013) for planning, design, development, operation and maintenance of MFCs on Indian Railway's land. IRCON (ISL) developed a MFC and sub-leased (September 2014) to M/s. Madurai Multifunctional Complex Pvt. Ltd.

As per lease agreement, the consideration was payable from the effective date i.e. from the date of signing of the lease agreement or the schedules for the respective site whichever is later. As such, the MAGP was to be received by SR Administration from 4 July 2013. However, the MAGP was received from November 2016 onwards. Audit noted that RLDA did not specify the period for which the payments were concerned. SR Administration failed to assess the MAGP due from RLDA and accepted the payments as received. SR Administration also failed to ensure that a periodic review was to be made every five years to update the value of railway land for the purpose of determining the MAGP. Audit noticed that out of ₹ 9.44 crore due to be received from RLDA for using 2700 sq.m. of land for the period from 04 July 2013 to 31 March 2020, only ₹ 1.90 crore was received and the balance of ₹ 7.54 crore remained unrealized (April 2021).

Audit also observed that IRCON had utilized extra land to an extent of 317.21 sq.m. A lease agreement has to be entered into with RLDA for utilization of the extra land by IRCON (ISL). The MAGP for this extra land for the period from 04 July 2013 to 31 March 2020 amounting to ₹ 1.11 crore also remained unrealized.

The matter was taken up (August 2021) with the General Manager, Southern Railway. In their reply, SR Administration stated (May 2022) that the outstanding dues of MAGP worked out up to the period of 2019-20 by Audit Branch, duly taking guideline value of the land as ₹ 8,000 per sq.ft. whereas this guideline value was valid upto 08 June 2007 only. Subsequently guideline value was revised to ₹ 5,360 per sq.ft with effect from 09 June 2017. Accordingly, the total outstanding dues worked out by Audit is ₹ 11.01 crore, whereas the dues worked out by SR Administration is ₹ 6.84 crore, out of which ₹ 1.89 crore has already been remitted by RLDA to the Division, thereby, making a difference of ₹ 4.17 crore, with respect to Audit's calculation sheet. Further, RLDA has already been addressed to remit the pending dues at the earliest.

The reply of SR Administration is not acceptable as the Lease agreement between RLDA and IRCON (ISL) was signed on 04 July 2013. The net amount of MAGP after deducting Margin Money duly revising the guideline value after the expiry of five years from the date of lease agreement i.e. from 04 July 2013 works out to ₹ 9.44 crore for 2700 sqm of land allotted and ₹ 1.11 crore for additional land of 317.21 sqm utilized by IRCON (ISL). Hence, the total MAGP works out to ₹ 10.55 crore. Out of which, ₹ 1.90 crore has been received so far from RLDA, the net MAGP amounting to ₹ 8.65 crore is still outstanding.

Thus, the Ministry of Railway's efforts to supplement its financial resources through non-tariff revenue has been ineffective owing to poor monitoring by SR Administration which resulted in short/non-realization of MAGP amounting to ₹ 8.65 crore.

The matter was referred to the MoR in June 2022; no reply was received (August 2022).

Recommendations:

- **Zonal Railways need to implement MoR's directives regarding revision of land leasing charges periodically.**
- **Responsibility needs to be fixed for non-realization of the said amount and non-compliance to the agreements/orders of MoR.**
- **Recovery notice in this regard to be issued.**

New Delhi
Dated:07 February 2023

(ILA SINGH)

Deputy Comptroller and Auditor General

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